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NORTHERN DISTRICT OF CALIFORNIA

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Attorneys for Defendants

CASTRO VALLEY UNIFIED SCHOOL DISTRICT; JO A. LOSS;
KUNIO OKUI; JOHN BARBIERI; JANICE FRIESEN;
GEORGE GRANGER; JAMES FITZPATRICK; SUSAN GOLDMAN;
MICHAEL MILLER; and JERRY MACY

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED UNION OF ROOFERS,
WATERPROOFERS, AND ALLIED
WORKERS-LOCAL 81 AFL-CIO, LEROY
CISNEROS, AND FRANCISCO GARCIA,

Plaintiffs,

vs.

COUNTY OF ALAMEDA; ALAMEDA
COUNTY SHERIFF'S OFFICE; SHERIFF
GREGORY AHERN, in his official capacity;
TIMOTHY J. VALES (#104529), ROBERT
MCKAIG (#364), individually and in their
official capacities; CASTRO VALLEY
UNIFIED SCHOOL DISTRICT; JO A. LOSS,
KUNIO OKUI, JOHN BARBIERI; JANICE
FRIESEN, and GEORGE GRANGER, in their
official capacities as members of the Castro
Valley Unified School District Board of
Education; SUPERINTENDENT JAMES
FITZPATRICK, in his official capacity;
SUSAN GOLDMAN, MICHAEL MILLER,
and JERRY MACY, individually,

Defendants.

Case No. C 08-02281 BZ

DEFENDANTS CASTRO VALLEY
UNIFIED SCHOOL DISTRICT; JO A. LOSS;
KUNIO OKUI; JOHN BARBIERI; JANICE
FRIESEN, GEORGE GRANGER; JAMES
FITZPATRICK; SUSAN GOLDMAN;
MICHAEL MILLER; AND JERRY MACY'S
ANSWER TO COMPLAINT FOR DAMAGES
AND INJUNCTIVE AND DECLARATORY
RELIEF

DEMAND FOR JURY TRIAL

1 Defendants CASTRO VALLEY UNIFIED SCHOOL DISTRICT; JO A. LOSS, KUNIO OKUI,
2 JOHN BARBIERI, JANICE FRIESEN, and GEORGE GRANGER, in their official capacities;
3 SUPERINTENDENT JAMES FITZPATRICK, in his official capacity; SUSAN GOLDMAN,
4 MICHAEL MILLER, and JERRY MACY, in their individual capacity, for themselves alone and
5 no other defendants, answer the Complaint of Plaintiffs' as follows:
6

- 7 1. Defendants admit the allegations of paragraph 1 of the Complaint.
- 8 2. Defendants deny the allegations contained in paragraph 2 of the complaint that relate to
9 them. With respect to the allegations as they relate to the other defendants, these
10 defendants are without sufficient knowledge or information to form a belief as to the truth
11 of the allegations, and on that basis deny each and every allegation contained therein.
- 12 3. Defendants are without sufficient knowledge or information to form a belief as to the
13 truth of the allegations contained in paragraph 3 of the Complaint, and on that basis
14 denies each and every allegation contained therein.
- 15 4. Defendants deny the allegations contained in paragraph 4 of the complaint that relate to
16 them. With respect to the allegations as they relate to the other defendants, these
17 defendants are without sufficient knowledge or information to form a belief as to the truth
18 of the allegations, and on that basis deny each and every allegation contained therein.
- 19 5. Defendants are without sufficient knowledge or information to form a belief as to the
20 truth of the allegations contained in paragraph 5 of the Complaint, and on that basis
21 denies each and every allegation contained therein.
- 22 6. Defendants are without sufficient knowledge or information to form a belief as to the
23 truth of the allegations contained in paragraph 6 of the Complaint, and on that basis
24 denies each and every allegation contained therein.
- 25 6. Defendants are without sufficient knowledge or information to form a belief as to the
26 truth of the allegations contained in paragraph 6 of the Complaint, and on that basis
27 denies each and every allegation contained therein.
- 28

1 7. Defendants are without sufficient knowledge or information to form a belief as to the
2 truth of the allegations contained in paragraph 7 of the Complaint, and on that basis
3 denies each and every allegation contained therein.

4 8. Defendants are without sufficient knowledge or information to form a belief as to the
5 truth of the allegations contained in paragraph 8 of the Complaint, and on that basis
6 denies each and every allegation contained therein.

7 9. Defendants are without sufficient knowledge or information to form a belief as to the
8 truth of the allegations contained in paragraph 9 of the Complaint, and on that basis
9 denies each and every allegation contained therein.

10 10. Defendants are without sufficient knowledge or information to form a belief as to the
11 truth of the allegations contained in paragraph 10 of the Complaint, and on that basis
12 denies each and every allegation contained therein.

13 11. Defendants are without sufficient knowledge or information to form a belief as to the
14 truth of the allegations contained in paragraph 11 of the Complaint, and on that basis
15 denies each and every allegation contained therein.

16 12. Defendants are without sufficient knowledge or information to form a belief as to the
17 truth of the allegations contained in paragraph 12 of the Complaint, and on that basis
18 denies each and every allegation contained therein.

19 13. Defendants are without sufficient knowledge or information to form a belief as to the
20 truth of the allegations contained in paragraph 13 of the Complaint, and on that basis
21 denies each and every allegation contained therein.

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1 14. Defendants are without sufficient knowledge or information to form a belief as to the
2 truth of the allegations contained in paragraph 14 of the Complaint, and on that basis
3 denies each and every allegation contained therein.
4

5 15. Defendants are without sufficient knowledge or information to form a belief as to the
6 truth of the allegations contained in paragraph 15 of the Complaint, and on that basis
7 denies each and every allegation contained therein.
8

9 16. Defendants are without sufficient knowledge or information to form a belief as to the
10 truth of the allegations contained in paragraph 16 of the Complaint, and on that basis
11 denies each and every allegation contained therein.
12

13 17. Defendants are without sufficient knowledge or information to form a belief as to the
14 truth of the allegations contained in paragraph 17 of the Complaint, and on that basis
15 denies each and every allegation contained therein.
16

17 18. Defendants admit the allegations contained in paragraph 18 of the Complaint.

18 19. Defendants admit the allegations contained in paragraph 19 of the Complaint.

19 20. Defendants admit the allegations contained in paragraph 20 of the Complaint.

20 21. Defendants admit the allegations contained in paragraph 21 of the Complaint.

21 22. Defendants admit the allegations contained in paragraph 22 of the Complaint.

22 23. Defendants admit the allegations contained in paragraph 23 of the Complaint.

23 24. Defendants admit the allegations contained in paragraph 24 of the Complaint.

24 25. Defendants admit the allegations contained in paragraph 25 of the Complaint.

25 26. Defendants admit the allegations contained in paragraph 26 of the Complaint.

26 27. Defendants admit the allegations contained in paragraph 27 of the Complaint.

27 28. Defendants admit the allegations contained in paragraph 28 of the Complaint.
28

1 29. Defendant denies the allegations contained in paragraph 29 of the Complaint.

2 30. Defendant denies the allegations contained in paragraph 30 of the Complaint.

3 31. Defendants admit the allegations contained in paragraph 31 of the Complaint.

4 32. Defendants admit the allegations contained in paragraph 32 of the Complaint.

5 33. Defendants admit the allegations contained in paragraph 33 of the Complaint.

6 34. Defendants admit the allegations contained in paragraph 34 of the Complaint.

7 35. Defendants deny the allegations contained in paragraph 35 of the complaint that relate to

8 them. With respect to the allegations as they relate to the other defendants, these

9 defendants are without sufficient knowledge or information to form a belief as to the truth

10 of the allegations, and on that basis deny each and every allegation contained therein

11 36. Defendants deny the allegations contained in paragraph 36 of the Complaint.

12 37. Defendants are without sufficient knowledge or information to form a belief as to the

13 truth of the allegations contained in paragraph 37 of the Complaint, and on that basis

14 deny each and every allegation contained therein.

15 38. Defendants are without sufficient knowledge or information to form a belief as to the

16 truth of the allegations contained in paragraph 38 of the Complaint, and on that basis

17 deny each and every allegation contained therein.

18 39. Defendants deny the allegations contained in paragraph 39 of the Complaint.

19 40. Defendants are without sufficient knowledge or information to form a belief as to the

20 truth of the allegations contained in paragraph 40 of the Complaint, and on that basis

21 deny each and every allegation contained therein.

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1 41. Defendants are without sufficient knowledge or information to form a belief as to the
2 truth of the allegations contained in paragraph 41 of the Complaint, and on that basis
3 deny each and every allegation contained therein.

4 42. Defendants are without sufficient knowledge or information to form a belief as to the
5 truth of the allegations contained in paragraph 42 of the Complaint, and on that basis deny
6 each and every allegation contained therein.

7 43. Defendants are without sufficient knowledge or information to form a belief as to the
8 truth of the allegations contained in paragraph 43 of the Complaint, and on that basis
9 deny each and every allegation contained therein.

10 44. Defendants are without sufficient knowledge or information to form a belief as to the
11 truth of the allegations contained in paragraph 44 of the Complaint, and on that basis
12 deny each and every allegation contained therein.

13 45. Defendants are without sufficient knowledge or information to form a belief as to the
14 truth of the allegations contained in paragraph 45 of the Complaint, and on that basis
15 deny each and every allegation contained therein.

16 46. Defendants are without sufficient knowledge or information to form a belief as to the
17 truth of the allegations contained in paragraph 46 of the Complaint, and on that basis
18 deny each and every allegation contained therein.

19 47. Defendants are without sufficient knowledge or information to form a belief as to the
20 truth of the allegations contained in paragraph 47 of the Complaint, and on that basis
21 deny each and every allegation contained therein.

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1 48. Defendants are without sufficient knowledge or information to form a belief as to the
2 truth of the allegations contained in paragraph 48 of the Complaint, and on that basis
3 deny each and every allegation contained therein.
4

5 49. Defendants are without sufficient knowledge or information to form a belief as to the
6 truth of the allegations contained in paragraph 49 of the Complaint, and on that basis
7 deny each and every allegation contained therein.
8

9 50. Defendants are without sufficient knowledge or information to form a belief as to the
10 truth of the allegations contained in paragraph 50 of the Complaint, and on that basis
11 deny each and every allegation contained therein.
12

13 51. Defendants are without sufficient knowledge or information to form a belief as to the
14 truth of the allegations contained in paragraph 51 of the Complaint, and on that basis
15 deny each and every allegation contained therein.
16

17 52. Defendants are without sufficient knowledge or information to form a belief as to the
18 truth of the allegations contained in paragraph 52 of the Complaint, and on that basis
19 deny each and every allegation contained therein.
20

21 53. Defendants are without sufficient knowledge or information to form a belief as to the
22 truth of the allegations contained in paragraph 53 of the Complaint, and on that basis
23 deny each and every allegation contained therein.
24

25 54. Defendants are without sufficient knowledge or information to form a belief as to the
26 truth of the allegations contained in paragraph 54 of the Complaint, and on that basis
27 deny each and every allegation contained therein.
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1 55. Defendants are without sufficient knowledge or information to form a belief as to the
2 truth of the allegations contained in paragraph 55 of the Complaint, and on that basis
3 deny each and every allegation contained therein.
4

5 56. Defendants deny the allegations contained in paragraph 56 of the Complaint.

6 57. Defendants admit the allegations contained in paragraph 57 as they relate to each of
7 them. With respect to the allegations related to the other defendants these defendants are
8 without sufficient knowledge or information to form a belief as to the truth of those
9 allegations, and on that basis deny each and every allegation contained therein.
10

11 58. Defendants deny the allegations contained in paragraph 58 of the Complaint as they
12 relate to them. With respect to the allegations related to the other defendants, these
13 defendants are without sufficient knowledge or information to form a belief as to the truth
14 of those allegations, and on that basis deny each and every allegation contained therein.
15

16 59. Defendants are without sufficient knowledge or information to form a belief as to the
17 truth of the allegations contained in paragraph 59 of the Complaint, and on that basis
18 deny each and every allegation contained therein.

19 60. Defendants deny the allegations contained in paragraph 60 of the Complaint as they
20 relate to them. With respect to the allegations related to the other defendants, these
21 defendants are without sufficient knowledge or information to form a belief as to the truth
22 of those allegations, and on that basis deny each and every allegation contained therein.
23

24 61. Defendants deny the allegations contained in paragraph 61 of the Complaint as they
25 relate to them. With respect to the allegations related to the other defendants, these
26 defendants are without sufficient knowledge or information to form a belief as to the truth
27 of those allegations, and on that basis deny each and every allegation contained therein.
28

1 62. Defendants deny the allegations contained in paragraph 62 of the Complaint.

2 63. Defendants repeat and re-allege all admissions and denials to paragraphs 1 through 62.

3 64. Defendants deny the allegations contained in paragraph 64 of the Complaint as they
4 relate to them. With respect to the allegations related to the other defendants, these
5 defendants are without sufficient knowledge or information to form a belief as to the truth
6 of those allegations, and on that basis deny each and every allegation contained therein.

7 65. Defendants admit that subparagraphs (a)-(f) are rights that are established in the United
8 States Constitution.

9 66. Defendants deny the allegations contained in paragraph 66 of the Complaint as they
10 relate to them. With respect to the allegations related to the other defendants, these
11 defendants are without sufficient knowledge or information to form a belief as to the truth
12 of those allegations, and on that basis deny each and every allegation contained therein.

13 67. Defendants repeat and re-allege all admissions and denials to paragraphs 1 through 66.

14 68. Defendants are without sufficient knowledge or information to form a belief as to the
15 truth of the allegations contained in paragraph 68 of the Complaint, and on that basis
16 deny each and every allegation contained therein.

17 69. Defendants are without sufficient knowledge or information to understand which rights
18 are referenced in paragraph 69 and therefore are unable to form a belief as to the truth of
19 the allegations contained in paragraph 69 of the Complaint, and on that basis deny each
20 and every allegation contained therein.

21 70. Defendants are without sufficient knowledge or information to form a belief as to the
22 truth of the allegations contained in paragraph 70 of the Complaint, and on that basis
23 deny each and every allegation contained therein.

1 71. Defendants are without sufficient knowledge or information to form a belief as to the
2 truth of the allegations contained in paragraph 71 of the Complaint, and on that basis
3 deny each and every allegation contained therein.
4

5 72. Defendants are without sufficient knowledge or information to form a belief as to the
6 truth of the allegations contained in paragraph 72 of the Complaint, and on that basis
7 deny each and every allegation contained therein.
8

9 73. Defendants repeat and re-allege all admissions and denials to paragraphs 1 through 72.

10 74. Defendants are without sufficient knowledge or information to form a belief as to the
11 truth of the allegations contained in paragraph 74 of the Complaint, and on that basis
12 deny each and every allegation contained therein.
13

14 75. Defendants are without sufficient knowledge or information to form a belief as to the
15 truth of the allegations contained in paragraph 75 of the Complaint, and on that basis
16 deny each and every allegation contained therein.
17

18 76. Defendants are without sufficient knowledge or information to form a belief as to the
19 truth of the allegations contained in paragraph 76 of the Complaint, and on that basis
20 deny each and every allegation contained therein.
21

22 77. Defendants repeat and re-allege all admissions and denials to paragraphs 1 through 76.

23 78. Defendants deny the allegations contained in paragraph 78 of the Complaint as they

24 relate to them. With respect to the allegations related to the other defendants, these

25 defendants are without sufficient knowledge or information to form a belief as to the truth
26 of those allegations, and on that basis deny each and every allegation contained therein.
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1 79. Defendants deny the allegations contained in paragraph 79 of the Complaint as they
2 relate to them. With respect to the allegations related to the other defendants, these
3 defendants are without sufficient knowledge or information to form a belief as to the truth
4 of those allegations, and on that basis deny each and every allegation contained therein.
5

6 80. Defendants repeat and re-allege all admissions and denials to paragraphs 1 through 79.

7 81. Defendants deny the allegations contained in paragraph 81 of the Complaint as they
8 relate to them. With respect to the allegations related to the other defendants, these
9 defendants are without sufficient knowledge or information to form a belief as to the truth
10 of those allegations, and on that basis deny each and every allegation contained therein.
11

12 82. Defendants deny the allegations contained in paragraph 82 of the Complaint as they
13 relate to them. With respect to the allegations related to the other defendants, these
14 defendants are without sufficient knowledge or information to form a belief as to the truth
15 of those allegations, and on that basis deny each and every allegation contained therein.
16

17 83. Defendants repeat and re-allege all admissions and denials to paragraphs 1 through 82.

18 84. Defendants are without sufficient knowledge or information to form a belief as to the
19 truth of the allegations contained in paragraph 84 of the Complaint, and on that basis
20 deny each and every allegation contained therein.
21

22 85. Defendants are without sufficient knowledge or information to form a belief as to the
23 truth of the allegations contained in paragraph 85 of the Complaint, and on that basis
24 deny each and every allegation contained therein.

25 86. Defendants are without sufficient knowledge or information to form a belief as to the
26 truth of the allegations contained in paragraph 86 of the Complaint, and on that basis
27 deny each and every allegation contained therein.
28

1 87. Defendants repeat and re-allege all admissions and denials to paragraphs 14 through 86.

2 88. Defendants are without sufficient knowledge or information to form a belief as to the
3 truth of the allegations contained in paragraph 88 of the Complaint, and on that basis
4 deny each and every allegation contained therein.
5

6 89. Defendants are without sufficient knowledge or information to form a belief as to the
7 truth of the allegations contained in paragraph 89 of the Complaint, and on that basis
8 deny each and every allegation contained therein.
9

10 90. Defendants are without sufficient knowledge or information to form a belief as to the
11 truth of the allegations contained in paragraph 90 of the Complaint, and on that basis
12 deny each and every allegation contained therein.

13 91. Defendants repeat and re-allege all admissions and denials to paragraphs 1 through 90.

14 92. Defendants deny the allegations contained in paragraph 92 of the Complaint as they
15 relate to them. With respect to the allegations related to the other defendants, these
16 defendants are without sufficient knowledge or information to form a belief as to the truth
17 of those allegations, and on that basis deny each and every allegation contained therein.
18

19 93. Defendants deny the allegations contained in paragraph 93 of the Complaint as they
20 relate to them. With respect to the allegations related to the other defendants, these
21 defendants are without sufficient knowledge or information to form a belief as to the truth
22 of those allegations, and on that basis deny each and every allegation contained therein.
23

24 94. Defendants repeat and re-allege all admissions and denials to paragraphs 1 through 93.

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1 95. Defendants deny the allegations contained in paragraph 95 of the Complaint as they
2 relate to them. With respect to the allegations related to the other defendants, these
3 defendants are without sufficient knowledge or information to form a belief as to the truth
4 of those allegations, and on that basis deny each and every allegation contained therein.
5

6 96. Defendants deny the allegations contained in paragraph 96 of the Complaint as they
7 relate to them. With respect to the allegations related to the other defendants, these
8 defendants are without sufficient knowledge or information to form a belief as to the truth
9 of those allegations, and on that basis deny each and every allegation contained therein.
10

11 97. Defendants repeat and re-allege all admissions and denials to paragraphs 1 through 96.

12 98. Defendants deny the allegations contained in paragraph 98 of the Complaint as they
13 relate to them. With respect to the allegations related to the other defendants, these
14 defendants are without sufficient knowledge or information to form a belief as to the truth
15 of those allegations, and on that basis deny each and every allegation contained therein.
16

17 99. Defendants deny the allegations contained in paragraph 99 of the Complaint as they
18 relate to them. With respect to the allegations related to the other defendants, these
19 defendants are without sufficient knowledge or information to form a belief as to the truth
20 of those allegations, and on that basis deny each and every allegation contained therein.
21

22 100. Defendants deny the allegations contained in paragraph 100 of the Complaint as they
23 relate to them. With respect to the allegations related to the other defendants, these
24 defendants are without sufficient knowledge or information to form a belief as to the truth
25 of those allegations, and on that basis deny each and every allegation contained therein.
26

27 101. Defendants repeat and re-allege all admissions and denials to paragraphs 1 through 100.
28

1 102. Defendants deny the allegations contained in paragraph 102 of the Complaint as they
2 relate to them. With respect to the allegations related to the other defendants, these
3 defendants are without sufficient knowledge or information to form a belief as to the truth
4 of those allegations, and on that basis deny each and every allegation contained therein.
5

6 103. Defendants deny the allegations contained in paragraph 103 of the Complaint as they
7 relate to them. With respect to the allegations related to the other defendants, these
8 defendants are without sufficient knowledge or information to form a belief as to the truth
9 of those allegations, and on that basis deny each and every allegation contained therein.
10

11 104. Defendants repeat and re-allege all admissions and denials to paragraphs 1 through 103.

12 105. Defendants deny the allegations contained in paragraph 105 of the Complaint as they
13 relate to them. With respect to the allegations related to the other defendants, these
14 defendants are without sufficient knowledge or information to form a belief as to the truth
15 of those allegations, and on that basis deny each and every allegation contained therein.
16

17 106. Defendant is without sufficient knowledge or information to form a belief as to the truth
18 of the allegations contained in paragraph 106 of the Complaint, and on that basis denies
19 each and every allegation contained therein.

20 107. Defendants deny the allegations contained in paragraph 107 of the Complaint as they
21 relate to them. With respect to the allegations related to the other defendants, these
22 defendants are without sufficient knowledge or information to form a belief as to the truth
23 of those allegations, and on that basis deny each and every allegation contained therein.
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1 108. Defendants deny the allegations contained in paragraph 108 of the Complaint as they
2 relate to them. With respect to the allegations related to the other defendants, these
3 defendants are without sufficient knowledge or information to form a belief as to the truth
4 of those allegations, and on that basis deny each and every allegation contained therein.
5

6 109. Defendants repeat and re-allege all admissions and denials to paragraphs 1 through 108.

7 110. Defendant is without sufficient knowledge or information to form a belief as to the truth
8 of the allegations contained in paragraph 110 of the Complaint, and on that basis denies
9 each and every allegation contained therein.
10

11 111. Defendant is without sufficient knowledge or information to form a belief as to the truth
12 of the allegations contained in paragraph 111 of the Complaint, and on that basis denies
13 each and every allegation contained therein.

14 112. Defendant is without sufficient knowledge or information to form a belief as to the truth
15 of the allegations contained in paragraph 112 of the Complaint, and on that basis denies
16 each and every allegation contained therein.
17

18 113. Defendants repeat and re-allege all admissions and denials to paragraphs 1 through 112.

19 114. Defendants deny the allegations contained in paragraph 114 of the Complaint as they
20 relate to them. With respect to the allegations related to the other defendants, these
21 defendants are without sufficient knowledge or information to form a belief as to the truth
22 of those allegations, and on that basis deny each and every allegation contained therein.
23

24 115. Defendants deny the allegations contained in paragraph 115 of the Complaint as they
25 relate to them. With respect to the allegations related to the other defendants, these
26 defendants are without sufficient knowledge or information to form a belief as to the truth
27 of those allegations, and on that basis deny each and every allegation contained therein.
28

1 116. Defendants deny the allegations contained in paragraph 116 of the Complaint as they
2 relate to them. With respect to the allegations related to the other defendants, these
3 defendants are without sufficient knowledge or information to form a belief as to the truth
4 of those allegations, and on that basis deny each and every allegation contained therein.
5

6 117. Defendants deny the allegations contained in paragraph 117 of the Complaint as they
7 relate to them. With respect to the allegations related to the other defendants, these
8 defendants are without sufficient knowledge or information to form a belief as to the truth
9 of those allegations, and on that basis deny each and every allegation contained therein.
10

11 118. Defendants deny the allegations contained in paragraph 118 of the Complaint as they
12 relate to them. With respect to the allegations related to the other defendants, these
13 defendants are without sufficient knowledge or information to form a belief as to the truth
14 of those allegations, and on that basis deny each and every allegation contained therein.
15

16 119. Defendants deny the allegations contained in paragraph 119 of the Complaint as they
17 relate to them. With respect to the allegations related to the other defendants, these
18 defendants are without sufficient knowledge or information to form a belief as to the truth
19 of those allegations, and on that basis deny each and every allegation contained therein.
20

21 **FIRST AFFIRMATIVE DEFENSE**

22 **[Failure to State a Claim Under FRCP Rule 12(b)(6)]**

23 120. As a separate, distinct and affirmative defense to the Complaint, and to each and every
24 cause of action contained therein, these answering Defendants allege that the Complaint,
25 and each and every cause of action contained therein, fails to state facts sufficient to state
26 a claim against these answering Defendants.

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SECOND AFFIRMATIVE DEFENSE

[Lack of Personal Jurisdiction Under FRCP Rule 12 (b)(2)]

121. As a separate, distinct and affirmative defense to the Complaint, and to each and every cause of action contained therein, these answering Defendants allege that the Complaint, and each and every cause of action contained therein, fails to establish personal jurisdiction.

THIRD AFFIRMATIVE DEFENSE

[Improper Venue Under FRCP Rule 12 (b)(3)]

122. As a separate, distinct and affirmative defense to the Complaint, and to each and every cause of action contained therein, these answering Defendants allege that the Complaint, and each and every cause of action contained therein, is barred by improper venue of the action.

FOURTH AFFIRMATIVE DEFENSE

[Insufficient Process Under FRCP Rule 12 (b)(4)]

123. As a separate, distinct and affirmative defense to the Complaint, and to each and every cause of action contained therein, these answering Defendants allege that the Complaint, and each and every cause of action contained therein, is barred by insufficiency of process.

FIFTH AFFIRMATIVE DEFENSE

[Insufficient Service of Process Under FRCP Rule 12 (b)(5)]

124. As a separate, distinct and affirmative defense to the Complaint, and to each and every cause of action contained therein, these answering Defendants allege that the Complaint, and each and every cause of action contained therein, is barred by insufficiency of service of process.

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SIXTH AFFIRMATIVE DEFENSE
[Failure to Join Party Under Rule 19]

125. As a separate, distinct and affirmative defense to the Complaint, and to each and every cause of action contained therein, these answering Defendants allege that the Complaint, and each and every cause of action contained therein, is barred by the failure to join a party needed for just adjudication under Federal Rules of Civil Procedure Rule 19.

SEVENTH AFFIRMATIVE DEFENSE
[Statute of Limitations]

126. As a separate, distinct and affirmative defense to the Complaint, and to each and every cause of action contained therein, these answering Defendants allege that the Complaint, and each and every cause of action contained therein, is barred by the applicable statute of limitations.

EIGHTH AFFIRMATIVE DEFENSE
[Estoppel, Waiver, Laches, Unclean Hands]

127. As a separate, distinct and affirmative defense to the Complaint, and to each and every cause of action contained therein, these answering Defendants allege that the Complaint, and each and every cause of action contained therein, is barred by the principles of estoppel, waiver, laches and unclean hands.

NINTH AFFIRMATIVE DEFENSE
[Justification]

128. As a separate, distinct and affirmative defense to the Complaint, and to each and every cause of action contained therein, these answering Defendants allege that the conduct of these answering Defendants as described in Plaintiffs' Complaint were justified.

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TENTH AFFIRMATIVE DEFENSE

[Privilege]

129. As a separate, distinct and affirmative defense to the Complaint, and to each and every cause of action contained therein, these answering Defendants allege that the conduct of these answering Defendants as described in Plaintiffs' Complaint was privileged in that these answering Defendants' conduct was fair and reasonable under the circumstances.

ELEVENTH AFFIRMATIVE DEFENSE

[Conduct of Others]

130. As a separate, distinct and affirmative defense to the Complaint, and to each and every cause of action contained therein, these answering Defendants allege that if Plaintiffs' sustained damages as alleged in its Complaint, which these answering Defendants deny, then that damage was caused by the conduct or, or omission of, other persons and entities over which these answering Defendants have no control, and for which these answering Defendants are not responsible.

TWELFTH AFFIRMATIVE DEFENSE

[Failure to Mitigate]

131. As a separate, distinct and affirmative defense to the Complaint, and each cause of action contained therein, these answering Defendants allege that if Plaintiff's sustained damages, which these answering Defendants expressly deny, then Plaintiffs failed to mitigate their damages.

THIRTEENTH AFFIRMATIVE DEFENSE

[Frivolous Claim]

132. As a separate, distinct and affirmative defense to the Complaint and each and every cause of action contained therein, Defendant alleges that Plaintiff's Complaint is frivolous within the meaning of California Code of Civil Procedure Section 128.5 and Defendant therefore is entitled to attorney fees and costs pursuant to that statute.

FOURTEENTH AFFIRMATIVE DEFENSE
[Unstated Affirmative Defenses]

133. As a separate, distinct, and affirmative defense to the Complaint and each and every cause of action contained therein, this answering Defendant alleges that it is presently unaware of whether or not it may have additional, as yet unstated affirmative defense. Defendants may seek leave of Court to assert such defenses, if any.

DEMAND FOR JURY TRIAL

These answering Defendants hereby demands a jury trial as provided by Rule 38(a) of the Federal Rules of Civil Procedure.

WHEREFORE, these answering Defendants pray for judgment as follows:

1. The plaintiffs' request for compensatory damages be denied in its entirety;
2. The Plaintiffs' request for special damages be denied in its entirety;
3. The plaintiffs' request for statutory damages and penalties pursuant to California Civil Code Sections 52(b) and 52.1(b) be denied in its entirety;
4. The plaintiffs' request for punitive damages be denied in its entirety;
5. The plaintiff's request for judicial injunction and declaration be denied in its entirety;
6. The plaintiffs' request for fees and costs be denied in its entirety;
7. Costs of suit;
8. Reasonable attorney's fees;
9. For such other and further relief as the Court deems just and proper.

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1 Dated: May 23, 2008

THURBON & McHANEY, LP.

2 By:

3 JACQUELINE S. McHANEY

4 Attorneys for Defendants

5 CASTRO VALLEY UNIFIED SCHOOL
6 DISTRICT; JO A. LOSS; KUNIO OKUI;
7 JOHN BARBIERI; JANICE FRIESEN,
8 GEORGE GRANGER; JAMES
9 FITZPATRICK; SUSAN GOLDMAN;
10 MICHAEL MILLER; AND JERRY MACY
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PROOF OF SERVICE

I, KIMBERLY CORCORAN, declare as follows:

I am over the age of 18 years and not a party to the within action. My place of employment and business address is 2339 Gold Meadow Way, Suite 210, Gold River, CA 95670

On May 23, 2008, I served the following document(s):

Defendants Castro Valley Unified School District; Jo A. Loss; Kunio Okui; John Barbieri; Janice Friesen; George Granger; James Fitzpatrick; Susan Goldman; Michael Miller; and Jerry Macy's Answer to Complaint for Damages and Injunctive and Declaratory Relief

☒ **by mail** on the following party(ies) in said action, in accordance in accordance with Code of Civil Procedure §1013(a), by placing a true copy thereof enclosed in a sealed envelope with postage prepaid in my place of business' designated area for outgoing United States Mail. I am readily familiar with the business practice at my place of business for collection and processing of outgoing United States Mail. Mail placed in that designated area is picked up the same day, in the ordinary course of business by the United States Postal Service.

☐ **by personally delivering** a true copy thereof, in accordance with Code of Civil Procedure §1011, to the person(s) and at the address(es) set forth below.

☐ **by overnight delivery** on the following party(ies) in said action, in accordance with Code of Civil Procedure §1013(c), by placing a true copy thereof enclosed in a sealed envelope, with delivery fees paid or provided for, in a designated area for outgoing overnight mail, addressed as set forth below. Mail placed in that designated area is picked up that same day, in the ordinary course of business, for delivery the following business day.

☐ **by facsimile transmission**, in accordance with Code of Civil Procedure §1013(e), to the following party(ies) at the facsimile number(s) indicated below.

Jivaka Candappa
46 Shattuck Square, Suite 15
Berkeley, CA 94707

Sharon Seidenstein
Law Offices of Ellyn Moscovitz
1629 Telegraph Avenue, 4th Floor
Oakland, CA 94612

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this document was executed on May 23, 2008.

Kimberly Corcoran
KIMBERLY CORCORAN